

~~Arkansas Lawyer Assistance Program~~ Arkansas Judges' and Lawyers' Assistance Program

~~(ALAP)~~ *(Arkansas JLAP)*

Procedure Manual

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FOREWORD

The Arkansas Supreme Court established the ~~Arkansas Lawyer Assistance Program (ALAP)~~ *Arkansas Judges' and Lawyers' Assistance Program (Arkansas JLAP)* as a program which assists and supports ~~lawyers and judges~~ *judges and lawyers* in overcoming physical or mental disabilities that result from disease, substance abuse, disorder, trauma, or age and that impairs their ability to practice or serve (impairments). The ~~Arkansas Lawyer Assistance Program~~ *Arkansas Judges' and Lawyers' Assistance Program* Committee (Committee) was appointed by the Arkansas Supreme Court to fulfill the purposes of the program, which are:

- to protect the interests of clients, litigants, and the general public from the harm caused by impaired *judges and lawyers*;
- to assist impaired members of the legal profession to begin and continue to recover; and,
- to educate the bench and bar to the causes of and remedies for impairment affecting members of the legal profession.

~~This manual presents the basic structure of ALAP and explains established guidelines pertaining to:~~

- ~~lawyers and judges suspected of being impaired;~~
- ~~intervention and referral;~~
- ~~treatment;~~
- ~~rehabilitation;~~
- ~~support;~~

~~reporting the impaired lawyer or judge to appropriate disciplinary authorities;~~
~~periodic reporting of statistical information; and~~
~~confidentiality and assuring due process.~~

The Committee shall develop the necessary documents to administer the program.

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1. BACKGROUND

~~ALAP~~ *The Arkansas Judges and Lawyers Assistance Program (JLAP)* was established by the Arkansas Supreme Court to be effective January 1, 2001. The Court appointed nine (9) committee members, including three (3) citizens who are not members of the legal profession. The members have diverse experience, knowledge and a demonstrated competence in the ~~problems of addiction and other common difficulties that impair members of the legal profession~~ *physical and mental health conditions that negatively affect a lawyer or judge in the practice of their profession and quality of life.*

The Court appoints the Chair of the Committee. The powers and duties of the Committee are:

to establish ~~ALAP~~ *Arkansas JLAP* policies and procedures consistent with the purposes of the program;

~~to operate the program to achieve its purposes~~

to oversee the management of the program to achieve the stated purposes; and,

to assure the implementation of the ~~ALAP~~ *Arkansas JLAP* program in compliance with the Arkansas Supreme Court per curiam Order of December, 7, 2000.

The procedures and policies set forth in this manual are cumulative to and explanatory of the per curiam order of December 7, 2000. In the event of conflict between these procedures and the per curiam order, the provisions of the per curiam order shall prevail.

2. PROGRAM GOALS AND GUIDING PRINCIPLES

~~ALAP GOALS~~

~~to provide detailed information to the legal community regarding the development of intervention, treatment and support programs and their effectiveness;~~

~~to assist the impaired lawyer or judge in overcoming alcohol and/or other substance abuse or dependency or other impairments;~~

~~to monitor and assist lawyers and judges in rebuilding their family structure;~~

~~to monitor and assist lawyers and judges in returning to legal practice or the bench;~~

~~to identify the active impaired lawyer or judge in the state of Arkansas, and~~

~~to establish a good working relationship with the legal community.~~

Arkansas JLAP's program goals are:

- 1. To identify the impaired lawyer or judge who is practicing in the state of Arkansas;*
- 2. To assist judges and lawyers in their personal recovery from physical or mental health conditions that affect competent practice of their profession and their quality of life;*
- 3. To assist the families of judges and lawyers during their personal recovery from identified physical or mental health conditions;*
- 4. To educate the legal community on identification, assessment, referral, treatment, and community based resources available to meet the needs of affected judges and lawyers;*
- 5. To monitor and assist judges and lawyers while they return to the practice of law or to the bench; and,*
- 6. To establish and maintain a cooperative relationship with the legal community.*

ALAP PRINCIPLES

~~humanitarian concern for the public and impaired lawyers and judges motivates the program;~~

~~alcohol and/or substance abuse and dependence or other impairments are treatable conditions;~~

~~alcohol and/or substance abuse or dependence or other impairments among lawyers and judges should not be ignored or left untreated;~~

~~impaired lawyers and judges are obligated to seek help and cooperate in treatment in order to regain or retain their full effectiveness as a lawyer or judge; and~~

~~it is every lawyer's or judge's responsibility to be aware of common signs and symptoms that may indicate a colleagues' alcohol and/or substance abuse or dependence or other impairments and to assist the colleague in receiving appropriate treatment.~~

Arkansas JLAP's guiding principles are:

- 1. The program is motivated by humanitarian concern for the public and legal community;*
- 2. Addiction, mental health concerns, physical disabilities and aging are treatable conditions;*

3. *Addiction, mental health concerns, physical disabilities and aging should not be ignored or left untreated;*
4. *Impaired judges and lawyers are obligated to seek assistance and to participate in services necessary to renew their full effectiveness as a lawyer, judge and family member; and,*
5. *Every licensed lawyer and judge has the ethical responsibility to recognize the signs and symptoms of a colleague who might be impaired and to assist the colleague in accessing appropriate services.*

3. CLINICAL DEFINITIONS

The following definitions are used by the Arkansas JLAP Committee and Staff for clarity and consistency:

<i>Active Participant -</i>	<i>A person who continues to make contact and cooperate with Arkansas JLAP staff;</i>
<i>Inactive Participant -</i>	<i>A person who has made contact (self-referral or referred by another party), but has ceased to make further contact over a 12 month period of time;</i>
<i>Non-Participant -</i>	<i>A referral has been received from another party, but t after investigation the referred person is deemed not appropriate for Arkansas JLAP engagement or contact had been made and the referral had not cooperated;</i>
<i>Pending -</i>	<i>A referral for a person has been received, information is being gathered, no direct contact with potential participant has occurred;</i>
<i>Compliant -</i>	<i>The participant is following the recommendations of the Arkansas JLAP staff and Arkansas JLAP contract;</i>
<i>Noncompliant -</i>	<i>The participant has failed to follow the recommendations of the Arkansas JLAP staff or has chose to no longer access services of Arkansas JLAP;</i>
<i>Transitional -</i>	<i>The participant is transitioning out of Arkansas JLAP as the result of loss of licensure; and,</i>

Trauma - *Negative stresses not specifically identified in the per curiam as alcohol, drug abuse, mental health, physical disability or aging (i.e., stress, time management, financial issues, codependency).*

4. COMMITTEE GUIDELINES

~~The following guidelines are used when a lawyer or judge contacts the Committee seeking assistance or when a lawyer or judge suspected of impairment is reported.~~

~~All information regarding the identity of the lawyer or judge will be kept confidential and secure;~~

~~Impairment may be established by the impaired lawyer's or judge's admission, or by the observation of another person;~~

~~After the initial report or request for assistance, an interview is scheduled with the lawyer or judge as soon as possible with the Program Director (Director);~~

~~Throughout the meeting, pertinent information is compiled on the lawyer or judge to document impairment;~~

~~During the interview, evidence is presented to the lawyer or judge suspected of impairment to encourage him or her to acknowledge the impairment;~~

~~If the lawyer or judge recognizes the impairment and is willing to enter treatment, an immediate treatment plan of action is developed;~~

~~The lawyer or judge is encouraged to obtain an appropriate evaluation as recommended by the Director which may include recommendations for treatment by a psychiatrist/addictionologist or other qualified professional;~~

~~Lawyers and judges are expected to be compliant with the evaluation and recommendations as a part of the treatment plan of action;~~

~~After receiving the evaluation, the Director recommends what action is appropriate concerning the lawyer or judge, subject to review by the Committee;~~

~~When the lawyer or judge successfully completes a treatment plan the Contract for monitoring compliance is signed;~~

~~Appropriate follow-up care will be monitored by the Director;~~

~~Drug screens as directed by the Contract will be performed with the results being placed in the individual lawyer or judge's file. If there is a positive drug screen, the Director will decide what action is to be taken and how to proceed with the matter.~~

~~The Director shall consult with the Committee or its representative prior to taking such action;~~

~~The participating lawyer or judge will be monitored to assure that he or she is attending AA/NA meetings and/or appropriate aftercare support as directed in the Contract. Documented attendance at meetings and support services shall be submitted to the Director and included in the files.~~

The following are guidelines used by the Arkansas JLAP committee and staff when contact is initiated:

A. VOLUNTARY SELF-REFERRALS

1. *Any licensed lawyer or judge may voluntarily, self-refer;*
2. *Basic information will be taken by telephone or in person to establish appropriateness for services;"*
3. *Arkansas JLAP staff meets with the lawyer or judge as soon as possible. The lawyer is encouraged to accept personal responsibility for his or her treatment process and recovery;*
4. *A clinical assessment is conducted by a licensed professional;*
5. *Treatment options are discussed and referrals made as appropriate; and,*
6. *The participant is offered the opportunity to participate in a health monitoring program to assure compliance with treatment goals.*

REPORTING SUSPECTED IMPAIRMENT

~~All information and referrals of suspected impairment received by the Committee or Director are confidential, nonpublic, and carefully maintained at all times. The records of the Committee shall be held in the strictest confidence in accordance with Rule 10 of the Rules of ALAP.~~

~~No anonymous referrals will be accepted by the Committee.~~

~~Any member of the legal profession seeking assistance and support from the Committee may self refer.~~

~~Referrals of suspected impairment may be reported by a concerned colleague, professional associate, family member, client, litigant, employer, or other individual who has first hand information indicating impairment or which might place at risk the public health, welfare, safety or the ability of a lawyer or judge to practice and serve.~~

~~Referrals will be accepted for lawyers or judges under investigational, provisional, or probational status with the Arkansas Professional Conduct Committee, the Arkansas~~

~~Judicial Discipline and Disability Commission, or any disciplinary agency with disciplinary authority.~~

B. REFERRALS OF SUSPECTED IMPAIRMENT

1. *No anonymous referrals are accepted by the Arkansas JLAP Committee or staff;*
2. *Referrals are accepted when the ability of a lawyer or judge to practice and serve are challenged and are expressed by a concerned party;*
3. *Referrals are accepted from any individual who has observed behaviors indicating impairment or have information that may place public health, welfare, or safety at risk;*
4. *Basic information will be taken by telephone or in person from the referral source to establish "pending status";*
5. *Arkansas JLAP staff meets with the lawyer or judge as soon as possible. The lawyer is encouraged to accept personal responsibility for his or her treatment process and recovery;*
6. *A clinical assessment is conducted by a licensed professional;*
7. *Treatment options are discussed and referrals made as appropriate; and,*
8. *The participant is offered the opportunity to participate in a health monitoring program to assure compliance with treatment goals.*

C. REFERRALS FROM DISCIPLINARY AUTHORITIES

Referrals are accepted for judges and lawyers under investigational, provisional, or probational status with the Arkansas Professional Conduct Committee, the Arkansas Judicial Discipline and Disability Commission or any disciplinary agency with disciplinary authority.

~~INVESTIGATION OF SUSPECTED IMPAIRMENT~~

~~The objective of an investigation is to carefully document information from individuals who have factual knowledge of the lawyer or judge's behavior. All investigative efforts must be discrete.~~

~~When a investigation produces no indication of impairment, the case is classified as unwarranted and is removed from the active files.~~

~~When an investigation does not produce the type of information required to conduct a successful intervention but there are indications that potential impairment exists, the case is maintained on file until sufficient information is obtained to warrant further action.~~

~~When impairment is confirmed following the investigation, an intervention will be conducted. The lawyer or judge is confronted using techniques designed to assist the lawyer or judge in acknowledging responsibility for initiating a recovery process or other necessary behavioral change.~~

D. INVESTIGATION OF SUSPECTED IMPAIRMENT

1. *The objective of investigating suspected impairment of a lawyer or judge is to gather accurate information from individuals who have concern for the health of the lawyer or judge. All efforts to gather information are discrete and confidential;*
2. *When an investigation produces insufficient indication of impairment, the lawyer or judge is classified as “non-participant status” but the file is maintained indefinitely should new information be obtained;*
3. *When impairment is confirmed, an intervention is planned and conducted with Arkansas JLAP staff. Intervention planning and implementation use techniques designed to assist the lawyer or judge to acknowledge personal responsibility for initiating treatment and becoming responsible for their recovery and other necessary behavioral changes;*
4. *Treatment options are discussed and referrals made as appropriate; and,*
5. *The participant is offered the opportunity to participate in a health monitoring program to assure compliance with treatment goals.*

ASSISTANCE FOR IMPAIRMENT

~~Appropriate assistance is offered through the following process:~~

~~A meeting between the lawyer or judge and the Program Director is arranged.~~

~~The lawyer or judge is encouraged to acknowledge the impairment and accept responsibility. An approach stressing the support and non-punitive aspects of the Committee is used.~~

~~A Contract is presented. The lawyer or judge signs the contract and agrees to participate in the treatment plan of action, or denies being impaired and refuses to sign the contract.~~

~~If the lawyer or judge signs the Contract and successfully participates in the treatment plan of action and monitoring plan, his or her identity will remain anonymous.~~

~~Impaired lawyers and judges who fail to comply with the Committee's recommendations may be reported by the Committee to the Arkansas Professional Conduct Committee, the Arkansas Judicial Disciplinary & Disability Committee or other disciplinary agency as appropriate under the guidelines of the per curiam.~~

E. HEALTH MONITORING CONTRACTS

A Health Monitoring Contract is a tool for maintaining treatment goals. Both addiction and mental health contracts monitor the participant's personal responsibility for achieving the desired goals and provide documentation of the accomplishments. Health Monitoring Contracts are individualized for each participant and are maintained for a minimum of three (3) years. Quarterly meetings with Arkansas JLAP staff verify compliance and serve as an ongoing supportive tool for the participating lawyer or judge.

HEALTH CONTRACT

~~An impaired lawyer or judge who has agreed to participate in the Committee's program is asked to sign a Health Contract before entering a treatment program. In this contract the participating lawyer or judge agrees to:~~

~~Enter into an assessment, treatment center, treatment program or hospital as recommended by the Committee;~~

~~Abstain from using any alcohol or chemical or acting on behaviors destructive to themselves or others;~~

~~Be compliant with all assessment and treatment program recommendations and those of the Director, and~~

~~Pay all expenses incurred through the implementation of the Health Contract and subsequent monitoring Contract.~~

TREATMENT

~~Treatment is the responsibility of the treatment center or medical professional accepting the case. The committee regularly evaluates treatment providers and programs for compliance with generally accepted standards of care.~~

MONITORING

~~Once treatment has been completed, the recovery process begins. The recovering lawyer or judge is asked to sign a Contract. The purpose of the Contract is to set forth terms and conditions which the recovering lawyer or judge will follow for a minimum of three (3) years. This agreement supplements and compliments the Health Contract the participating lawyer or judge signed before entering the treatment.~~

~~Monitoring is imperative to prevent relapse or regression into old, self-destructive behaviors. The following guidelines will be used:~~

~~Upon compliance and completion of the treatment plan, the lawyer or judge is required to contact the Director within 24 hours from discharge;~~

~~The lawyer or judge will participate in random drug screening as indicated in his or her Contract. The results of these screens will be placed in the lawyer or judge's file;~~

~~Documentation of participation in AA/NA or other support meetings as indicated in the Contract will be sent to the Director and will be placed in the lawyer or judge's file; and~~

~~Quarterly meetings with the Director will be arranged to verify treatment compliance and serve as a tool of support for the participating lawyer or judge.~~

SERVICES PROVIDED

~~The Committee provides intervention counseling for family members, friends, colleagues, or other who is a potential participant for a structured, formal intervention.~~

5. ADDITIONAL SERVICES

Arkansas JLAP provides support services for family members, friends, colleagues or others who are potential participants in an intervention. These services may include motivational services to learn techniques and self-care during the recovery process of the participant.

RELEASE OF STATISTICAL INFORMATION

~~Statistical information concerning verifiable and unverifiable reports of suspected impairment, self-referrals, or other substantive information is included in the comprehensive~~

~~statistical reports compiled by the Director and reported to the Court. Individual names will not be included in such reports.~~

6. REPORTING OF STATISTICAL INFORMATION

Statistical information consisting of status; compliance; referral source; nature of impairment; gender; and geographic location are compiled by Arkansas JLAP staff. No individually identifying information is included in the statistical information. Statistical information is provided to the Arkansas Supreme Court annually. Statistical information is maintained indefinitely.

CONFIDENTIALITY

~~Information and actions taken by ALAP shall be held in the strictest confidence and shall not be disclosed or required to be disclosed to any person or entity outside of ALAP, unless such disclosure is authorized~~

7. CONFIDENTIALITY

Information and actions taken by Arkansas JLAP are held in the strictest confidence and shall not be disclosed or required to be disclosed to any person or entity outside of Arkansas JLAP, unless such disclosure is authorized by the participant. Exceptions include any Arkansas JLAP staff who is a licensed health care professionals thus a mandated reporter as outlined by Arkansas statutes.

8. TRANSITIONAL SERVICES

To provide competent clinical care to Arkansas JLAP participants two issues regarding transitional services are provided:

Abandonment Prohibited. Licensed health care professionals do not abandon or neglect clients in counseling. Counselors assist in making appropriate referral arrangements for the continuation of treatment, when necessary, during interruptions such as vacations and following termination of services; and,

Disbarment Should an Arkansas JLAP participant be disbarred during the course of treatment, the Arkansas JLAP staff will continue to provide transitional services consistent with the requirements of their professional licensing board with regards to proper termination of services. No lawyer or judge shall be refused services during disbarment proceedings or until transitional services have been accomplished.

9. FILE RETENTION

To be compliant with standards for licensed mental health professionals in the State of Arkansas paper files for all participants will be maintained for seven (7) years from the date services were terminated. The minimum data required by licensed mental health professionals in the state of Arkansas will be retained. All unnecessary information to meet retention requirements will be shredded.